



**DEC 13 2012**

The Honorable Neil Abercrombie  
Governor of Hawaii  
Executive Chambers  
State Capitol  
Honolulu, Hawaii 96813

Dear Governor Abercrombie:

This letter provides conditional approval of Hawaii's State Plan (excluding waiver requests) for Title I of the Workforce Investment Act (WIA), the Wagner-Peyser Act (W-P), including W-P Agricultural Outreach Plan, and plans for coordination with Trade Adjustment Assistance (TAA). The Employment and Training Administration (ETA) received the State Plan on September 17, 2012. This letter also separately addresses Hawaii's WIA waiver requests.

Training and Employment Guidance Letter (TEGL) No. 21-11, issued on March 27, 2012, and TEGL No. 21-11, Change 1, issued on August 8, 2012, provide guidance for states to submit their State Workforce Plans and waivers for Program Year (FY) 2012 and beyond. We appreciate the State's responsiveness to this guidance.

Plan Review and Approval

ETA has reviewed the Hawaii State Plan in accordance with Title I of WIA, the W-P, the Trade Act (as amended), the corresponding regulations, the State Integrated Workforce Plan Requirements for Workforce Investment Act Title I/Wagner-Peyser Act and Department of Labor Workforce Programs (<http://www.doleta.gov/usworkforce/wia-planning/docs/integrated-planning-guidance.pdf>), and TEGL No. 21-11. Pursuant to 20 CFR 661.230(e), this letter constitutes a written determination under WIA Section 112 (29 USC 2822) that ETA is approving the WIA Title I, W-P and TAA portions of Hawaii's State Plan for the period July 1, 2012 through June 30, 2017, PY 2012-PY 2016, with the exceptions noted below. ETA is approving the State Plan on the condition that the State provides the following items to meet the State Integrated Workforce Plan requirements:

- The State Plan must include Labor Market Information (LMI) and analysis tied to the Governor's vision, including occupational information resulting from the State Workforce Skills Panel. The LMI data must incorporate that information into the description of the projected trends in the State's economy, industries and occupations, and assessment of the workforce skills necessary for economic

growth. (Please refer to “Economic and Workforce Information Analysis” in Section I of the State Integrated Workforce Plan Requirements.)

- The State Plan must describe how the State will use program funds to leverage other Federal, state, local and private resources, in order to effectively and efficiently provide services. (Please refer to “State Strategies: Leveraging Resources” in Section I of the State Integrated Workforce Plan Requirements.)
- The section in the State Plan entitled Priority of Services to Low Income Individuals, as written, does not conform to the regulations at 20 CFR 663.600. This section of the Plan must be revised for compliance with this regulation.
- The State Plan must describe how WIA youth activities are coordinated with the services provided by the Job Corps program. The description must include outreach and admissions, center operations, and career placement and transition services. (Please refer to “Services to State Target Populations” in Section II of the State Integrated Workforce Plan Requirements.)
- The State Plan must describe in detail how funds will be used to expand the participation of business in the statewide workforce investment system. (Please refer to “Services to Employers” in Section II of the State Integrated Workforce Plan Requirements.)
- Assurance 4: The State Plan (Wagner Peyser – Agricultural Outreach Plan) must provide the organizations from which the State solicited information and suggestions, the comments received, and the State’s responses.
- Assurances 10, 11, 12, 16: The State must provide accessible links to all documents embedded in the State Plan submission and the current policies that cover each of the assurances.

The State must modify its State Plan to include the above required items, and submit a modification to ETA at your earliest convenience but no later than March 15, 2013. The annual W-P Agricultural Outreach Plan is approved for the period July 1, 2012 through June 30, 2013.

The State is eligible to receive WIA formula allotments for Adult, Dislocated Worker, and Youth programs, and W-P program allotments, effective July 1, 2012 through June 30, 2017, under the condition that the information identified above is provided.

#### Performance Levels

Each year, the Regional Administrator negotiates the Program Year’s WIA and W-P performance goals with each state. Hawaii’s goals have been negotiated and the Regional Administrator’s letter dated October 26, 2012, advised the State of the PY 2012 WIA and W-P final performance goals. This letter also indicated that Hawaii’s final performance goals for PY 2012 will be incorporated into the Regional and National Office copies of the State Integrated Workforce Plan. Please include these final PY 2012 goals in the State’s official copy of the State Plan.

## Waivers

As part of Hawaii's State Plan, the State submitted waiver requests for waivers of statutory and regulatory requirements under WIA (copy enclosed). The State's request for waivers is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c). The disposition of the State's waiver requests is outlined below. This action is taken under the Secretary's authority at WIA Section 189(i) to waive certain requirements of WIA Title I, Subtitles B and E, and Sections 8-10 of the W-P.

### Waiver of WIA Section 133(b)(4) to increase the allowable transfer amount between Adult and Dislocated Worker funding streams allocated to a local area.

The State requested a waiver to permit an increase in the amount a state is allowed to transfer between the Adult and Dislocated Worker funding streams. The State is granted this waiver through June 30, 2017. Under the waiver, transfer authority is limited to 50 percent. This limitation provides states flexibility while ensuring consistency with Congressional intent regarding the level of funding appropriated for the WIA Adult and Dislocated Worker programs.

### Waiver of WIA Section 123 that requires that providers of Youth program elements be selected on a competitive basis.

The State requested a waiver of the WIA Section 123 requirement for competitive procurement of service providers for four of the ten youth program elements: supportive services; follow-up services; work experience; and comprehensive guidance and counseling. ETA believes that competitive procurement of these elements is the most efficient and cost-effective way to ensure the development of high-quality service providers, but we agree with the state that for some elements competitive procurement impacts continuity of services to youth and connections to work experience/internship host agencies and employers. Therefore, we are approving this waiver through June 30, 2017.

We approve the waiver to permit the State to allow its American Job Centers or partner agencies to directly provide the youth program elements of guidance and counseling, supportive services, follow-up services, and work experience. However, we approve the waiver for the element of guidance and counseling on the condition that the State may make this waiver available to local areas on a case-by-case basis to those areas that demonstrate a cost savings and ensure that its implementation provides equitable services to all customers regardless of background. The State must provide guidance outlining the criteria for obtaining such flexibility and must ensure that it reviews the following factors in assessing such requests:

- Description of the alternative service delivery arrangement
- Name of the AJC Operator or partner program that will provide the service
- Justification in support of the determination to not select the provider through a competitive procurement

- How customer service will be improved, including how the local area will leverage and coordinate services with community based organizations that serve diverse populations
- How the benefits will be measured

The State must monitor the implementation of this waiver on an ongoing basis and include its oversight in local area compliance monitoring.

Waiver of the required 50 percent employer contribution for customized training at WIA Section 101(8)(C).

The State requested a waiver of the required 50 percent employer contribution for customized training to permit the use of a sliding scale for the employer contribution based on the size of the business. The State is granted this waiver through June 30, 2017. Under the waiver, the following sliding scale is permitted: 1) no less than 10 percent match for employers with 50 or fewer employees, and 2) no less than 25 percent match for employers with 51-250 employees. For employers with more than 250 employees, the current statutory requirements (50 percent contribution) continue to apply. When determining the funding source for customized training, the State must use the appropriate program funds for the appropriate WIA-eligible population. The State and local area may provide customized training to individuals 18 years of age or older with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the State and local area may provide customized training to dislocated workers with WIA Dislocated Worker funds. Customized training provided with statewide funds must serve WIA eligible individuals.

Waiver of the provision at 20 CFR 663.530 that prescribes a time limit on the period of initial eligibility for training providers.

The State requested a waiver of the time limit on the period of initial eligibility of training providers provided at 20 CFR 663.530. The State is granted this waiver through June 30, 2017. Under the waiver, the State is allowed to postpone the determination of subsequent eligibility of training providers. The waiver also allows the State to provide an opportunity for training providers to re-enroll and be considered enrolled as initially eligible providers.

Waiver of WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training.

The State requested a waiver to permit an increase in employer reimbursement for on-the-job training through a sliding scale based on the size of the business. The State is granted this waiver through June 30, 2017. Under the waiver, the following reimbursement amounts will be permitted: 1) up to 90 percent for employers with 50 or fewer employees, and 2) up to 75 percent for employers with 51-250 employees. For employers with more than 250 employees, the current statutory requirements (50 percent reimbursement) will continue to apply. When determining the funding source for on-the-job training, the State must use the appropriate program funds for the appropriate WIA-

individuals 18 years of age or older with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the State and local area may provide on-the-job training to dislocated workers with WIA Dislocated Worker funds. On-the-job training provided with statewide funds must serve WIA eligible individuals.

Waiver of the WIA regulations at 20 CFR 666.100 to exempt the state from including credential attainment outcomes for participants enrolled in on-the-job training in the credential performance measure calculations.

The State requested a waiver to exempt it from including credential attainment outcomes in the credential performance measure calculations for participants enrolled in on-the-job training. The State is granted this waiver through June 30, 2017. The State must continue to report outcomes in the Workforce Investment Act Standardized Record Database (WIASRD) for participants enrolled in on-the-job-training.

Waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth.

The State requested a waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts (ITAs) for older youth and out-of-school youth program participants. The State is granted this waiver through June 30, 2017. Under this waiver, the State can use ITAs for older youth and out-of-school youth program participants. The State must continue to make the 10 youth program elements available as described at WIA Section 129(c)(2). The State should ensure that funds used for ITAs are tracked and that the ITAs are reflected in the individual service strategies for these youth.

Waiver of WIA Section 134(a)(2)(B)(iii) and 20 CFR 665.200(e) to exempt a state from the requirement to provide local workforce investment area incentive grants.

The State requested a waiver of the requirement to provide local workforce investment areas incentive grants to reward regional cooperation, local coordination of activities, and exemplary performance. The State is granted this waiver through June 30, 2013.

Waiver of WIA Section 129(b)(2)(C) and 20 CFR 665.200(h) to exempt the state from the requirement to provide additional assistance to local areas that have a high concentration of eligible youth.

The State requested a waiver of the requirement to provide additional assistance to local areas that have a high concentration of eligible youth. The State is granted this waiver through June 30, 2013.

Waiver of WIA Section 134(a)(1)(A) to permit a portion of the funds reserved for rapid response activities to be used for incumbent worker training.

The State is requesting a waiver to permit use of rapid response funds to conduct allowable statewide activities as defined under WIA Section 134(a)(3), specifically incumbent worker training. The State is granted this waiver through June 30, 2017.

Under this waiver, the State is permitted to use up to 20 percent of rapid response funds for incumbent worker training only as part of a layoff aversion strategy. ETA believes limiting incumbent worker training to layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training delivered under this waiver is restricted to skill attainment activities. The State is required to report performance outcomes for any incumbent workers served under this waiver in the Workforce Investment Act Standardized Record Data system (WIASRD), field 309. TEGL No. 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver" provide policy guidance related to implementation of this waiver.

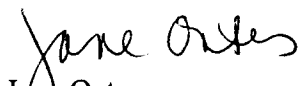
Waiver of 20 CFR 665.320(d)(2) to use a percentage of statewide rapid response funds to support required statewide activities.

The State requested a waiver of 20 CFR 665.320 to use State rapid response money to fund statewide activities identified at WIA Section 134(a)(2)(B). ETA denies the State's request. ETA believes that rapid response funds should be used for the activities necessary to plan and deliver services to enable dislocated workers to transition to employment as soon as possible after a dislocation event and not to supplement state funds used for required statewide activities.

The approved waivers are incorporated by reference into the State's WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and this constitutes a modification of the State Plan. A copy of this letter should be filed with the State's WIA Grant Agreement and the approved State Plan. In addition, as described in TEGL No. 29-11, the State should address the impact these waivers have had on the State's performance in the WIA annual performance report, due on October 1 of each year.

We look forward to working together as you implement your State Integrated Workforce Plan for PY 2012 and beyond. We encourage your efforts in exploring the adoption of the American Job Center brand. We are available to provide technical assistance. If you have any questions related to the issues discussed above, please contact Janice Shordike, the Federal Project Officer for Hawaii, at 415-625-7943 or [Shordike.Janice@dol.gov](mailto:Shordike.Janice@dol.gov).

Sincerely,



Jane Oates  
Assistant Secretary

Enclosure

cc: Virginia Hamilton, Regional Administrator, ETA San Francisco Regional Office  
Janice Shordike, Federal Project Officer for Hawaii

**From:** James.P.Hardway@Hawaii.Gov  
**Posted At:** Monday, September 17, 2012 6:15 PM  
**Conversation:** Reduced Size WIA State Plan  
**Posted To:** WIA.PLAN

**Subject:** Reduced Size WIA State Plan

Aloha All-

I think I have resolved my file size issue. Please accept this version of the state plan.

James

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James P. Hardway  
Executive Director

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## 9. WIA Waiver Requests

Per 20 CFR 661.420(c), the State of Hawaii requests that the waivers on the proceeding pages be approved for the five (5) year term of this state plan.

## 10. Comments on Waiver Requests

All attached waiver requests were subject to public review as described in the section on Notice and Opportunity to comment for each request. Two (2) additional requests (that are not attached) were posted on May 23, 2012 on the State Plan Website for comments:

a) **COMMON MEASURES:** In the initial draft of the plan, it was the intention of the state to submit for approval a waiver to convert the state's performance measures to that of Common Measures. During the comment period that ended June 30, 2012, it was determined through discussions between the SWIB and LWIBs, as well as with the Workforce Development Division of the State's Department of Labor and Industrial Relations, that this waiver was not in the best interests of local areas, and that further discussion on its implementation in the future would continue between the SWIB and four LWIBs in the State of Hawaii. Therefore, this request was withdrawn.

(b) **CUSTOMER SATISFACTION:** The State of Hawaii had previously submitted a waiver on customer satisfaction surveys, suggesting alternative methods of obtaining survey information that was not just tied to telephone interviews. This waiver was rejected by the USDOL earlier in 2012 because the requirement was a DOL policy versus law or regulations. Originally, the waiver request was included again in light of continued funding restrictions on the SWIB. A comment requested withdrawal of the waiver request based on USDOL's earlier rejection. The waiver request was withdrawn as a result.

HAWAII STATE REQUEST FOR A WAIVER:

***To Permit Reimbursement For  
On-The-Job-Training by a Sliding Scale***

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The Hawaii Workforce Development Council ("WDC"), as well as the Workforce Development Division ("WDD") of the Department of Labor and Industrial Relations, as the State of Hawaii's administrator for the Workforce Investment Act ("WIA"), is submitting a waiver to permit the State of Hawaii to reimburse employers up to 90 percent for On-The-Job-Training as stated in WIA section 101 (31)(B) for approval from the U.S. Department of Labor ("DOL").

Hawaii proposes to adjust the OJT reimbursement based on a sliding scale from 50 to 90 percent. The State will allow the local workforce investment boards to establish the following OJT reimbursement scale based on employer size:

- 50 or less employees Up to 90%
- 51-250 employees Up to 75%
- 251 or more employees Up to 50%

The waiver will allow the State to encourage and expand the hiring of dislocated workers and other populations who lack some of the skills needed to meet an employer's needs. It will provide them with opportunities to add new skills and learn new technologies while they return to the workplace and earn wages to support themselves and their families.

The State has consulted with the LWIBs and the WDD regarding the need for this waiver.

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*Identify the statutory or regulatory requirements to be waived.*

Section 101 (31)(B) of the Workforce Investment Act (WIA) of 1998.

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*Describe the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers.*

There is no state or local barriers to implementing the requested waiver.

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*Describe the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver and expected programmatic outcomes.*

This program will maximize the flexibility needed to create OJT opportunities in the private and non-private sectors that provide appropriate skill acquisition opportunities for participants. The State of Hawaii sees the increase in OJT reimbursement as a incentive for companies to use the workforce system established to find workers, and

then hire those people into gainful employment. With the scope of those unemployed, this will also provide a chance for companies to hire for positions that are of high quality with higher wages. In some cases, this program will provide the ability for companies to fill critical-need areas that are challenges in their overall workforce.

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*Describe the individuals impacted by the waiver.*

Individuals targeted for OJT would be dislocated workers and other hard-to-serve populations with the greatest barriers to employment who are not already skilled enough to obtain available employment and who would most benefit from being able to earn a wage while learning new skill. Employers to be targeted are those with full-time job openings in growth industries and having difficulties finding appropriately skilled workers but who would have the ability to provide on-the-job-training if assisted with the extraordinary costs of providing such training.

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*Describe the process used to monitor the progress in implementing such a waiver.*

Upon notification of the approval of this waiver, Section X.D.5 of the State WIA Plan will reflect the terms of the waiver. A WIA Bulletin will be issued to notify local areas of the new policy.

The Workforce Development Council will be responsible for monitoring the effectiveness of this waiver on the Local Areas. The WDC will periodically request information from the Local Areas on how this specific waiver is being effectuated in the Local Area. From these monitoring reports, the WDC will determine whether this specific Waiver will continue to be requested in future extensions of the State Plan.

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*Notice and Opportunity to Comment.*

The waiver was posted on the State Plan Website set up for LWIBs and board review, with notice to both the Board and LWIBs, on May 23, 2012, and continued to be posted until The Plan was submitted. No comments were received.

HAWAII STATE REQUEST FOR WAIVER:

***To Eliminate 30% Limit on Fund Transfer Between Adult and Dislocated Worker Programs***

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*Statutory and Regulatory Requirements to be Waived.*

WIA §133(b)(4) and WIA Regulations at 20 CFR §667.140(a) limit the amount of funds that can be transferred between the Adult and the Dislocated Worker employment and training programs. The limits are 30% of the fiscal year allocations to the respective programs.

The Hawaii Department of Labor and Industrial Relations ("DLIR"), the state administrative entity for the Workforce Investment Act (WIA), requests a waiver to eliminate the 30% limitation on transferring local WIA funds between the Adult and Dislocated Worker programs so that, with State approval, 100% of the Adult and Dislocated Worker formula funding is available to meet the workforce needs of the local area.

This waiver request follows the format identified in WIA §189(i)(4)(B) and WIA Regulations at 20 CFR §661.420(c).

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*State or Local Statutory and/or Regulatory Barriers.*

There are no state or local statutory or regulatory barriers to implementing the current WIA provision or the waiver.

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*Goals to be Achieved by the Waiver.*

The following goals will be achieved with the approval of the waiver request:

- Funds will be directed to where they are most needed for Adult and/or Dislocated Worker clients;
- Greater flexibility for local workforce investment boards and their staff in designing and implementing programs;
- Increased efficiency of local workforce investment boards and their staff who will be able to plan for a year at a time; and
- Improved responsiveness to local need and demand.

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*Programmatic Outcomes by the Waiver.*

The waiver will allow local areas to direct funds to where and when they are needed to serve clients. This waiver will increase efficiency and introduce more flexibility and creativity into designing and implementing employment and training activities for all Adult and Dislocated Worker clients.

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*Impacts on Individuals by the Waiver.*

Dislocated Workers will be better served even though, without the waiver, the history for the previous period would mean a lower amount of funds are allocated for their program. Adults will benefit when unused funds for Dislocated Workers are utilized for the Adult program. In other words, the funds will follow the needs of individual clients.

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*Monitoring the Waiver's Implementation.*

Upon notification of the approval of this waiver, Section X.D.5 of the State WIA Plan will reflect the terms of the waiver. A WIA Bulletin will be issued to notify local areas of the new policy.

The Workforce Development Council will be responsible for monitoring the effectiveness of this waiver on the Local Areas. The WDC will periodically request information from the Local Areas on how this specific waiver is being effectuated in the Local Area. From these monitoring reports, the WDC will determine whether this specific Waiver will continue to be requested in future extensions of the State Plan.

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*Notice and Opportunity to Comment.*

The waiver was posted on the State Plan Website set up for LWIBs and board review, with notice to both the Board and LWIBs, on May 23, 2012, and continued to be posted until The Plan was submitted. No comments were received.

HAWAII STATE REQUEST FOR WAIVER:

***To Eliminate Incentive Grants to Local Areas For Regional Cooperation and Local Coordination***

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*Statutory and Regulatory Requirements to be Waived.*

WIA §134(a)(2)(B)(iii) and WIA Regulations at 20 CFR §665.200(e)(1) and (2) require, as statewide workforce investment activities, providing incentive grants (1) to local areas for regional cooperation among Local Boards and (2) for local coordination of activities carried out under WIA.

Furthermore, under 20 CFR §661.290, it states that the State may require Local Boards within a designated region (1) Participate in a regional planning process that results in regional performance measures for workforce investment activities under title I of WIA. Regions that meet or exceed the regional performance measures may receive regional incentive grants; (2) Share, where feasible, employment and other types of information that will assist in improving the performance of all local areas in the designated region on local performance measures; and (3) Coordinate the provision of WIA title I services, including supportive services such as transportation, across the boundaries of local areas within the designated region.

The Hawaii Department of Labor and Industrial Relations (DLIR), the state administrative entity for the Workforce Investment Act (WIA), requests a waiver to eliminate the requirement to provide incentive grants to local areas for regional cooperation among local boards and for local coordination of WIA activities.

In implementing this waiver, the DLIR will ensure that local areas' performance information is recorded accurately, One-Stop operations are made more efficient and responsive to customers, and the youth programs receive additional technical assistance.

This waiver request follows the format identified in WIA §189(i)(4)(B) and WIA Regulations at 20 CFR §661.420(c).

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*State or Local Statutory and/or Regulatory Barriers.*

There are no state or local statutory or regulatory barriers to implementing the award or the waiver.

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*Goals to be achieved by the Waiver.*

The following goals will be achieved with the approval of the waiver request:

- The funds will be put to better, more productive use by streamlining (1) the management accountability information system and (2) providing more technical assistance to youth service providers and local monitors in local areas having poor performance; and
- Data entry by the local areas will be more accurate, which will improve the performance measures. Historically, Hawaii's poor data entry has meant successful outcomes have not been consistently

reported. Local workforce investment boards and their staff will eliminate the Coordination/Cooperation incentive application process from their workload.

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*Programmatic Outcomes by the Waiver.*

The waiver will create administrative efficiencies for both the DLIR and the local areas by eliminating the incentive award application process and requiring fewer contract amendments and modifications.

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*Impacts on Individuals by the Waiver.*

Employers and WIA participants will be empowered to select and use the services of the One-Stops more independently. Through the HireNet Hawaii system, potential WIA participants can self-identify and access WIA services. Individual youth will receive better service and outcomes due to technical assistance targeted toward them.

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*Monitoring the Waiver's Implementation.*

Upon notification of the approval of this waiver, Section X.D.5 of the State WIA Plan will reflect the terms of the waiver. A WIA Bulletin will be issued to notify local areas of the new policy.

The Workforce Development Council will be responsible for monitoring the effectiveness of this waiver on the Local Areas. The WDC will periodically request information from the Local Areas on how this specific waiver is being effectuated in the Local Area. From these monitoring reports, the WDC will determine whether this specific Waiver will continue to be requested in future extensions of the State Plan.

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*Notice and Opportunity to Comment.*

The waiver was posted on the State Plan Website set up for LWIBs and board review, with notice to both the Board and LWIBs, on May 23, 2012, and continued to be posted until The Plan was submitted. No comments were received.

## ***Exempt the State of Hawaii From Including On-the-Job-Training Participants In Credential Attainment Measures***

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The Hawaii Workforce Development Council ("WDC"), as well as the Workforce Development Division ("WDD") of the Department of Labor and Industrial Relations, as the State of Hawaii's administrator for the Workforce Investment Act ("WIA") is submitting a waiver to exempt the state of Hawaii from including On-The-Job-Training ("OJT") participants in credential attainment measures.

The State has consulted with the Local Workforce Investment Boards ("LWIBs") and the WDC regarding the need for this waiver.

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*Identify the statutory or regulatory requirements to be waived.*

Hawaii is requesting a waiver of WIA Regulations 666.100 (a) (1) (iv) for Adults and 666.100 (a) (2) (iv) for Dislocated Workers to exclude individuals who are participating in the OJT activities from inclusion in the WIA performance measures of entered unsubsidized employment and attainment of credentials. The exclusion is for inclusion in the Credential Rate measure outcomes only. Participants will continue to be reported and included in the quarterly WIASRD submissions, as well as continue to be accountable for all other applicable performance measures' outcomes.

This waiver request follows the format identified in WIA §189(i)(4)(B) and WIA Regulations at 20 CFR §661.420(c).

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*Describe the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers.*

There is no state or local barriers to implementing the requested waiver.

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*Describe the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver and expected programmatic outcomes.*

The goal of this waiver is to give the local workforce investment areas greater flexibility and access to use of the OJT activity without having a negative impact on credential/certificate related to this performance measure. The State of Hawaii feels that, with this waiver, the Local Workforce Investment Boards ("LWIBs") will have an incentive to increase OJT activity without adversely impacting overall performance. Currently, OJT training adversely counts toward attainment measures, as most OJT activities do not customarily lead to a nationally recognized certificate or credential – a requirement in performance measures. Because the State of Hawaii's businesses are mostly in the "small business" category, most OJT training that occurs is not nationally certified, but is tailored more toward the



specific business, their operations and procedures. These in themselves will give those trained valuable skills and knowledge.

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*Describe the individuals impacted by the waiver.*

Providing more flexibility in the workforce system to allow the use of OJT provides significant advantages for businesses, workers, as well as WIA provider entities. For the workforce system, this waiver will give LWIB administrators more flexibility in implementing OJT programs, in a wider range, to employer-partners. With the ability to provide more flexibility in providing resources toward OJT programs from the LWIBs, Employers will be able to utilize OJT, thus minimizing the upfront costs of training and supervision for new employees; ensure that training is aligned with actual skill requirements of the job, and realize immediate gains in productivity as workers learn on the job. Workers participating in OJT benefit because they are receiving a paycheck while acquiring the skills to perform effectively on the job and advance their careers beyond the lifespan of the training program.

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*Monitoring the Waiver's Implementation.*

Upon notification of the approval of this waiver, Section X.D.5 of the State WIA Plan will reflect the terms of the waiver. A WIA Bulletin will be issued to notify local areas of the new policy.

The Workforce Development Council will be responsible for monitoring the effectiveness of this waiver on the Local Areas. The WDC will periodically request information from the Local Areas on how this specific waiver is being effectuated in the Local Area. From these monitoring reports, the WDC will determine whether this specific Waiver will continue to be requested in future extensions of the State Plan.

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*Notice and Opportunity to Comment.*

The waiver was posted on the State Plan Website set up for LWIBs and board review, with notice to both the Board and LWIBs, on May 23, 2012, and continued to be posted until The Plan was submitted. No comments were received.

## ***To Change Required 50% Employer Match For Customized Training to a Sliding Scale***

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### *Statutory and Regulatory Requirements to be Waived.*

WIA §101(8) defines customized training as training (a) that is designed to meet the special requirements of an employer (including a group of employers) and (b) that is conducted with a commitment by the employer to employ an individual upon successful completion of the training. Employers are required to pay not less than 50% of the cost of the customized training.

The Hawaii Department of Labor and Industrial Relations (DLIR), the state administrative entity for the Workforce Investment Act (WIA), requests a waiver to change the required 50% employer match for customized training to a sliding scale.

This waiver request follows the format identified in WIA §189(i)(4)(B) and WIA Regulations at 20 CFR §661.420(c).

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### *State or Local Statutory and/or Regulatory Barriers.*

There are no state or local statutory or regulatory barriers to requiring the 50% employer match for customized training or applying a sliding scale for employer contributions.

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### *Goals to be achieved by the Waiver.*

The following goals will be achieved with the approval of the waiver request:

- Increase employer participation in WIA customized training programs at the local level, as the sliding scale will correspond to the employer's cost benefit ratio to hire and retain skilled employees. The sliding scale will address employers' primary objection of paying too much (50%) to participate in customized training;
- Equip workers with relevant job training and transferable skills that lead to high-skill, high-wage occupations and industries. The sliding scale will favor training for high skills; as it will be more feasible for employers who pay higher salaries to participate in customized training; and
- Improve the local areas' business services and employers' customer satisfaction.

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*Programmatic Outcomes by the Waiver.*

- Increase the number of employers who use customized training as a means to train, hire, and retain skilled employees; and
- Increase the number of workers trained and hired through customized training programs.

The reduced match requirement will benefit employers financially and result in increased participation in customized training which will prepare individuals for higher skilled jobs. WIA eligible individuals with multiple barriers to employment, low basic skills, and English language proficiency stand to gain the most from customized training.

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*Monitoring the Waiver's Implementation.*

Upon notification of the approval of this waiver, Section X.D.5 of the State WIA Plan will reflect the terms of the waiver. A WIA Bulletin will be issued to notify local areas of the new policy.

The Workforce Development Council will be responsible for monitoring the effectiveness of this waiver on the Local Areas. The WDC will periodically request information from the Local Areas on how this specific waiver is being effectuated in the Local Area. From these monitoring reports, the WDC will determine whether this specific Waiver will continue to be requested in future extensions of the State Plan.

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*Notice and Opportunity to Comment.*

The waiver was posted on the State Plan Website set up for LWIBs and board review, with notice to both the Board and LWIBs, on May 23, 2012, and continued to be posted until The Plan was submitted. No comments were received.

## ***To Waive Subsequent Eligibility For Eligible Training Providers***

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### *Statutory and Regulatory Requirements to be Waived.*

WIA section 122(c) and (d)(1) and WIA regulations at 20 CFR section 663.530-550 requires and describes the subsequent eligibility process for eligible training providers ("ETPs"). Most WIA training services are provided through Individual Training Accounts ("ITAs"), which may be used to purchase training from only ETP.

The Hawaii Department of Labor and Industrial Relations ("DLIR"), the state administrative entity for the Workforce Investment Act ("WIA"), requires a waiver to eliminate the subsequent eligibility process thus allowing providers that the local areas found eligible initially to continue under the initial eligibility process and safeguards.

The waiver request follows the format identified in WIA section 189(i)(4)(B) and WIA regulations at 20 CFR section 661.420(c).

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### *State or Local Statutory and/or Regulatory Barriers.*

There is no state or local barriers to implementing the requested waiver.

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### *Describe the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver and expected programmatic outcomes.*

The following goals will be achieved with the approval of this waiver request:

- Reduce a significant amount of staff time and resources in implementing the subsequent eligibility process, which Congress is very likely to eliminate anyway in WIA reauthorization;
  - Increase customer choice and number of Eligible Training Providers by removing onerous data collection requirements on the ETP's; and
  - Streamline the information for customers by removing meaningless, empty and/or untimely data cells.
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### *Programmatic outcomes by the Waiver.*

The waiver will reduce a significant amount of staff time and resources currently directed toward the collection of performance data and calculation of performance outcomes by provider and program. Freeing staff and resources from this task will enable us to improve the management information system and provide more technical assistance toward performance outcomes. The onerous data collection requirements also have discouraged providers,

including some community colleges, from applying for subsequent eligibility, and removal of this requirement will encourage more providers to apply, thereby giving customers more choices in training.

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*Impacts on individuals by this Waiver.*

- WIA clients will have greater customer choice; and
  - Information will be straightforward and useful for individuals.
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*Monitoring the Waiver's Implementation.*

Upon notification of the approval of this waiver, Section X.D.5 of the State WIA Plan will reflect the terms of the waiver. A WIA Bulletin will be issued to notify local areas of the new policy.

The Workforce Development Council will be responsible for monitoring the effectiveness of this waiver on the Local Areas. The WDC will periodically request information from the Local Areas on how this specific waiver is being effectuated in the Local Area. From these monitoring reports, the WDC will determine whether this specific Waiver will continue to be requested in future extensions of the State Plan.

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*Notice and Opportunity to Comment.*

The waiver was posted on the State Plan Website set up for LWIBs and board review, with notice to both the Board and LWIBs, on May 23, 2012, and continued to be posted until The Plan was submitted. No comments were received.

## ***Request to Waive Competitive Procurement For Selected Youth Elements Required Under WIA***

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The Hawaii Workforce Development Council ("WDC"), as well as the Workforce Development Division ("WDD") of the Department of Labor and Industrial Relations, as the State of Hawaii's administrator for the Workforce Investment Act ("WIA"), is submitting a waiver to competitive procurement for selected youth elements, as stated in WIA section 123 for approval from the U.S. Department of Labor ("DOL"). The State of Hawaii requests a waiver of the competitive procurement requirements for just the following four youth program elements: follow up services; guidance and counseling; support services; and paid and unpaid work experience.

The WDC has consulted with the LWIBs and the WDD regarding the need for this waiver. The City and County of Honolulu will be utilizing this waiver as they are local grant recipients to administer the youth programs for Oahu local workforce development area.

The City and County of Honolulu, which is the grant recipient/fiscal agent of the WIA programs for the Oahu local workforce development area, has been using competitive procurement methods to provide nine of the eleven youth elements. The interpretation of design framework is that it includes a comprehensive array of services under case management, and should include guidance and counseling and follow up services. Therefore, the City has also been providing follow up services, and guidance and counseling in addition to intake, objective assessment and development of individual service strategy as services within the design framework.

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*Identify the statutory or regulatory requirements to be waived.*

The State of Hawaii requests a waiver to those statutory and regulatory requirements that require the local areas to conduct a competitive procurement for all of its Youth program elements. According to Section 123 of the Workforce Investment Act (WIA) of 1998, Identification of Eligible Providers of Youth Activities requires that all eleven of the essential elements of any successful youth program be competitively procured. The section reads as follows:

From funds allocated under paragraph (2)(A) or (3) of section 128(b) to a local area, the local board for such area shall identify eligible providers of youth activities by awarding grants or contracts on a competitive basis, based upon the recommendations of the youth council and on the criteria contained in the State plan, to the providers to carry out the activities, and shall conduct oversight with respect to the providers, in the local area.

Notwithstanding the above, Section 664.405 of the WIA Rules and Regulations states that competitive procurement does not apply to the design framework component:

The requirement in WIA section 123 that eligible providers of youth services be selected by awarding a grant or contract on a competitive basis does not apply to the design framework component, such as services for intake, objective assessment and the development of individual service strategy, when these services are provided by the grant recipient/fiscal agent.

The City and County of Honolulu, which is the grant recipient/fiscal agent of the WIA programs for the Oahu local workforce development area, has been using competitive procurement methods to provide nine of the eleven youth elements. Our interpretation of design framework is that it includes a comprehensive array of services under case management, and should include guidance and counseling and follow up services. Therefore, the City has also been providing follow up services, and guidance and counseling in addition to the above examples of intake, objective assessment and development of individual service strategy as services within the design framework.

Support services are procured. However, for those youth service vendors who do not provide support services, the City assists them in providing support services directly to the youth.

Paid and unpaid work experience is procured. However, beginning in PY 09, the City would like to supplement the delivery of paid and unpaid work experience by youth service vendors by adding this element as part of the design framework to strengthen the case management model. With the waiver, the City will have the flexibility in procuring this element for vendors to provide paid and unpaid work experience as well as in operating this program element in-house within the design framework.

The State of Hawaii requests a waiver of the competitive procurement requirements for just the above four youth program elements: follow up services; guidance and counseling; support services; and paid and unpaid work experience.

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*Describe the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers.*

The State of Hawaii has implemented WIA under federal law and did not include any additional requirements or limitations on the design of WIA youth activities. Local workforce development boards have adopted state policies without any additional requirements or limitations. Since no additional state or local barriers have been imposed, there is none to remove.

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*Describe the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver and expected programmatic outcomes.*

The goals for the youth program under the waiver will be greater effectiveness and efficiency. There will be increased flexibility and continuity of program delivery to better meet customers' needs.

By keeping guidance and counseling, follow-up, support services, and paid and unpaid work-experience together with other functions such as intake, assessment, and the development of employment plans, one stop case management is facilitated. Simplification and integration of coordination allows more resources to be focused on the youth that are served.

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*Describe the individuals impacted by the waiver.*

The individuals impacted by this waiver are older and younger youth customers.

Youth customers will benefit by receiving a streamlined array of services allowing for greater coordination and implementation of individual service strategies. With greater continuity and consistency, youth will receive complementary services enabling them to better address barriers and work toward fulfilling their education and training plans.

In addition, Hawaii's Workforce Development Council and the local areas will receive greater flexibility in the design of their youth programs. Local areas under the waiver will have a choice as to whether to contract out these youth elements or to do them in house. The local areas will also have the flexibility of supplementing the work performed by the youth service vendors.

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*Monitoring the Waiver's Implementation.*

Upon notification of the approval of this waiver, Section X.D.5 of the State WIA Plan will reflect the terms of the waiver. A WIA Bulletin will be issued to notify local areas of the new policy.

The Workforce Development Council will be responsible for monitoring the effectiveness of this waiver on the Local Areas. The WDC will periodically request information from the Local Areas on how this specific waiver is being effectuated in the Local Area. From these monitoring reports, the WDC will determine whether this specific Waiver will continue to be requested in future extensions of the State Plan.

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*Notice and Opportunity to Comment.*

The waiver was posted on the State Plan Website set up for LWIBs and board review, with notice to both the Board and LWIBs, on May 23, 2012, and continued to be posted until The Plan was submitted. No comments were received.



HAWAII STATE REQUEST FOR WAIVER:

***Of Permitting Individual Training Accounts for Youth Only If They Are Eligible and Co-enrolled as Adults***

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The State of Hawaii Workforce Development Council ("WDC"), after consultation with appropriate key partners, including the Local Workforce Investment Boards ("LWIBs") is requesting a waiver to Title 20, CFR Section 664.510, which permits Individual Training Accounts ("ITA") for youth only if they are determined eligible for and are co-enrolled as an adult or dislocated worker.

Hawaii's intent for this waiver is to enable the state's LWIBs to increase older youth enrollment and serve more of that population. As described below, the population of Older Youth in Hawaii does not always follow an academic path upon graduation from high school. To serve Hawaii's Older Youth that may, instead of college/trade school, may choose to enter employment immediately, the ability to offer this population the necessary resources to obtain critical training is vital. Adult and dislocated worker programs provided through Eligible Training Providers ("ETP") can provide that training in order to allow the Older Youth to possibly pursue career-track employment opportunities that provide enhanced opportunities for advancement throughout their employment career.

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*Identify the statutory or regulatory requirements to be waived.*

Title 20, CFR Section 664.510, which permits ITAs of youth only if they are eligible and co-enrolled as adults.

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*Describe the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers.*

There is no state or local barriers to implementing the requested waiver.

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*Describe the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver and expected programmatic outcomes.*

A number of older youth in the state of Hawaii are either not going to school, already working, or intending on entering the workforce upon graduation from high school. To address this growing client group, this waiver would allow older youth to select approved programs from the Eligible Training Provider list, while retaining their Older Youth classification. Individual Training Accounts ("ITAs") will be made available to Older Youth in order to provide the necessary financial resources for them to obtain training through ETPs.

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*Describe the individuals impacted by the waiver.*

This waiver will directly impact older youth that will now be able to benefit from accessing more training opportunities through the use of the ETP, affording them the same opportunities given to adult and dislocated workers.

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*Describe the process used to monitor the progress in implementing such a waiver.*

Upon notification of the approval of this waiver, Section X.D.5 of the State WIA Plan will reflect the terms of the waiver. A WIA Bulletin will be issued to notify local areas of the new policy.

The Workforce Development Council will be responsible for monitoring the effectiveness of this waiver on the Local Areas. The WDC will periodically request information from the Local Areas on how this specific waiver is being effectuated in the Local Area. From these monitoring reports, the WDC will determine whether this specific Waiver will continue to be requested in future extensions of the State Plan.

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*Notice and Opportunity to Comment.*

The waiver was posted on the State Plan Website set up for LWIBs and board review, with notice to both the Board and LWIBs, on May 23, 2012, and continued to be posted until The Plan was submitted. No comments were received.

HAWAII STATE REQUEST FOR WAIVER:

***Transfer of Up To 25% of the Governor's 25% Reserve For  
Statewide Rapid Response Activities to Support Statewide  
Workforce Investment Activities***

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*Identify the statutory or regulatory requirements to be waived.*

20 CFR 665.320 (d)(2) restricts states from using 25% rapid response funds to directly fund State Level Activities, including incumbent worker training.

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*Describe the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers.*

There is no state or local barriers to implementing the requested waiver.

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*Describe the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver and expected programmatic outcomes.*

This waiver will allow for the continuation of the State-local partnership that provides Statewide Activities funds to meet real-time needs, including accounting and other mandatory activities that are required of it by WIA.

This waiver will allow the State to more effectively direct funding where it is most needed to provide necessary support services to the local areas that will be dramatically affected by the reduction in the Governor's reserve from 15% to 5% as of the start of fiscal year 2012. Because of this reduction, without subsequent funding from either the state or other federal funds, Hawaii risks being in non-compliance with WIA state mandated activities starting in the next fiscal year (2012). This includes monitoring, accounting and timely reporting to the USDOL ETA.

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*Describe the individuals impacted by the waiver.*

This waiver would support state level activities including but not limited to programs that provide training to incumbent workers.

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*Describe the process used to monitor the progress in implementing such a waiver.*

Upon notification of the approval of this waiver, Section X.D.5 of the State WIA Plan will reflect the terms of the waiver. A WIA Bulletin will be issued to notify local areas of the new policy.

The Workforce Development Council will be responsible for monitoring the effectiveness of this waiver on those statewide activities that are funded through monies diverted from Rapid Response. The WDC will periodically request and obtain information from other statewide entities that will use the monies on how this specific waiver is being effectuated at the statewide level. From these monitoring reports, the WDC will determine whether this specific Waiver will continue to be requested in future extensions of the State Plan.

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*Notice and Opportunity to Comment.*

The waiver was posted on the State Plan Website set up for LWIBs and board review, with notice to both the Board and LWIBs, on May 23, 2012, and continued to be posted until The Plan was submitted. No comments were received.

HAWAII STATE REQUEST FOR WAIVER:

## ***Use of Rapid Response Funding for Incumbent Worker Training***

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*Identify the statutory or regulatory requirements to be waived.*

The State of Hawaii requests a waiver from the provisions of WIA Sections 134 (Use of Funds for Employment Training Activities), as well as a waiver from the provisions of WIA regulation at 20 CFR 665.300 regarding the use of WIA Rapid Response funds.

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*Describe the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers.*

There is no state or local barriers to implementing the requested waiver.

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*Describe the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver and expected programmatic outcomes.*

Hawaii is currently facing a critical funding reduction from WIA formula funds starting in Fiscal Year 2012. To be able to continue to provide statewide activities in the form of providing incumbent worker training, the State of Hawaii feels that investing public resources to support technical and/or soft skills training of incumbent workers is a practical layoff aversion strategy for the state. The healthcare, agriculture and tourism industries -- which are targeted high-growth industries in Hawaii -- are the industries in which funding will initially be funneled to regarding incumbent worker training programs.

The training that will be provided includes occupational skills training designed to meet the special requirements of a business and is conducted with employer commitment. Training is expected to provide skills which result in the employer being able to adjust to a changing economic climate by providing the jobs necessary to do so, thus avoiding layoffs. Training is also expected to provide skills for employees, which will permit advancement to higher skilled, higher paying jobs and job retention.

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*Describe the individuals impacted by the waiver.*

This waiver plan will positively impact businesses by reducing the risk of layoff or closure because workers have not kept current with new skills and technologies. It also has the potential to stimulate new, lower-skill positions and create opening in positions vacated by incumbent workers who receive skills upgrade training. Hawaii has seen upgrade skills training positively affect the healthcare industry, which allows for lower, entry level positions to be

opened for newly graduated nurses and other healthcare professionals to enter the industry in the state. The training provided to individuals will make them more valuable to current and future employers.

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*Describe the process used to monitor the progress in implementing such a waiver.*

Upon notification of the approval of this waiver, Section X.D.5 of the State WIA Plan will reflect the terms of the waiver. A WIA Bulletin will be issued to notify local areas of the new policy.

The Workforce Development Council will be responsible for monitoring the effectiveness of this waiver on those statewide activities that are funded through monies diverted from Rapid Response. The WDC will periodically request and obtain information from other statewide entities that will use the monies on how this specific waiver is being effectuated at the statewide level. From these monitoring reports, the WDC will determine whether this specific Waiver will continue to be requested in future extensions of the State Plan.

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*Notice and Opportunity to Comment.*

The waiver was posted on the State Plan Website set up for LWIBs and board review, with notice to both the Board and LWIBs, on May 23, 2012, and continued to be posted until The Plan was submitted. No comments were received.

## ***Request to Waive Requirement of Providing Assistance to Local Areas With High Concentration of Eligible Youth***

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The State of Hawaii is submitting a request to waive the requirement of providing assistance to local areas that have high concentrations of eligible youth. Due to a severe limitation on statewide funds, Hawaii is requesting that financial assistance not be distributed to identified local areas.

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### *Identify the Statutory or Regulatory Requirements to be Waived*

Section 129 (b)(2)(C) of the Workforce Investment Act and 20 CFR 652 § 665.200(h) require the provision of additional assistance to local areas that have high concentration of eligible youth to carry out the activities described in subsection (c), Local Elements and Requirements. State Administrative Funds capped at 5% and a decrease in the total allotment of funds for Youth Programs have greatly reduced the funds available to carry out this requirement. In the past, amounts of \$2,000 were available for two of the four local areas: Hawaii County received \$1,500, while Maui County received \$500. The administrative costs to gather relevant data, calculate the distribution of funds, and modify agreements to incorporate such amounts far outweigh the actual benefit to the receiving agencies.

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### *State or Local Statutory and/or Regulatory Barriers*

There are no state or local statutory or regulatory barriers to implementing the requested waiver.

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### *Goals to be Achieved by the Waiver*

In the past, only two Local Areas benefited from the \$2,000 set aside for serving a high concentration of eligible youth. With a decrease in the funding of WIA, it is anticipated that less than \$2,000 may be available for this purpose. The funds will be better utilized by providing technical assistance to all local areas in meeting youth performance goals.

As stated above, the administrative costs at the State level, at a minimum, will involve time spent by a program specialist, accountant, and Deputy Attorney General to gather relevant information, calculate the distribution of funds, and modify agreements to include the small amount of additional funds to local areas. Similar staff time will be spent at the local level to prepare budgets that reflect the additional funds and process modifications to existing agreements. The cost to prepare these modifications outweighs the benefits.

The 5% maximum in State administrative funds, estimated to be approximately \$350,000, will create great hardship for the State to carry out all responsibilities. Eliminating the need to distribute small amounts of incentive funds will assist the State in focusing on responsibilities that will have a greater impact on the State.

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### *Programmatic Outcomes by the Waiver*

The waiver will allow the DLIR to provide technical assistance to all local areas instead of conducting administrative paperwork that will have minimal impact on only half the local areas.

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### *Impact on Individuals by the Waiver*

There will be no discernible impact on participants.

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### *Monitoring the Waiver's Implementation*

The Workforce Development Council will be responsible for monitoring the effectiveness of the waiver on the Local Areas. If there is an increase in the funds allotted to the State, the need for this waiver will be evaluated and the waiver may be rescinded.

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### *Notice and Opportunity to Comment*

This waiver was posted on the State Plan Website for public and board review, with notices to members of the State Council and Local WIBs, on July 2, 2012 and continued to be posted until the Plan was submitted. No comments were received regarding this waiver.